

**U.S. District Court  
District of Alaska (Anchorage)  
CIVIL DOCKET FOR CASE #: 3:18-cv-00227-TMB**

Inter-Cooperative Exchange v. United States Department of  
Commerce et al  
Assigned to: Timothy M. Burgess  
Cause: 05:552 Freedom of Information Act

Date Filed: 10/02/2018  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**Inter-Cooperative Exchange**  
*an Alaska cooperative corporation*

represented by **Andrew P. Richards**  
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**TERMINATED: 02/06/2019**  
**LEAD ATTORNEY**

**Michelle DeLappe**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**United States Department of  
Commerce**

represented by **Richard L. Pomeroy**  
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**ATTORNEY TO BE NOTICED**

**Defendant**

**National Oceanic and Atmospheric  
Administration**

represented by **Richard L. Pomeroy**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**National Marine Fisheries Service**

represented by **Richard L. Pomeroy**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
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10/02/2018	<u>1</u>	COMPLAINT for Declaratory and Injunctive Relief Under FOIA against All Defendants ( Filing fee \$ 400 receipt number 097--2588438.), filed by Inter-Cooperative Exchange. (Attachments: # <u>1</u> Appendix 1, # <u>2</u> Appendix 2, # <u>3</u> Appendix 3, # <u>4</u> Appendix 4, # <u>5</u> Appendix 5, # <u>6</u> Appendix 6, # <u>7</u> Appendix 7, # <u>8</u> Appendix 8, # <u>9</u> Appendix 9, # <u>10</u> Appendix 10, # <u>11</u> Appendix 11, # <u>12</u> Appendix 12, # <u>13</u> Civil Cover Sheet)(Richards, Andrew) (Entered: 10/02/2018)
10/02/2018	<u>2</u>	Corporate Disclosure Statement by Inter-Cooperative Exchange. (Richards, Andrew) (Entered: 10/02/2018)
10/02/2018	<u>3</u>	Civil Cover Sheet. (PXS, COURT STAFF) (Entered: 10/02/2018)
10/02/2018	<u>4</u>	Unissued summons re Defendant U.S. Attorney, (Attachments: # <u>1</u> Unissued Summons re Defendant U.S. Attorney General, # <u>2</u> Unissued Summons re Defendant United States Department of Commerce, # <u>3</u> Unissued Summons re Defendant National Oceanic and Atmospheric Administration, # <u>4</u> Unissued Summons re Defendant National Marine Fisheries Service)(PXS, COURT STAFF) (Entered: 10/02/2018)
10/02/2018		Summons Issued as to National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce, U.S. Attorney and U.S. Attorney General (PXS, COURT STAFF) (Entered: 10/02/2018)
10/08/2018	<u>5</u>	AFFIDAVIT of Service via Certified Mail by Inter-Cooperative Exchange. (Richards, Andrew) (Entered: 10/08/2018)
12/19/2018	<u>6</u>	MOTION for Extension of Time to File Answer [Unopposed] by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 12/19/2018)
12/26/2018	<u>7</u>	<b>TMB TEXT ORDER GRANTING <u>6</u></b> Motion for Extension of Time to File Answer. As agreed by the parties, Defendants' Answer is due <b>on or before 1/4/2019</b> . (NMG, CHAMBERS STAFF) (Entered: 12/26/2018)
02/05/2019	<u>8</u>	STIPULATION <i>Recalculation of U.S. Answer Deadline</i> by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 02/05/2019)
02/06/2019	<u>9</u>	<b>TMB TEXT ORDER GRANTING <u>8</u></b> Stipulation Re Recalculation of U.S. Answer Deadline. The U.S. shall file its Answer to the Complaint <b>on or before 2/22/2019</b> . (NMG, CHAMBERS STAFF) (Entered: 02/06/2019)
02/06/2019	<u>10</u>	NOTICE of Withdrawal and Substitution of Counsel by Inter-Cooperative Exchange (Richards, Andrew) (Entered: 02/06/2019)
02/22/2019	<u>11</u>	ANSWER to <u>1</u> Complaint, by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Exhibit 1- Appeal Decision)(Pomeroy, Richard) (Entered: 02/22/2019)
03/05/2019	<u>12</u>	INITIAL CASE STATUS REPORT/CASE SCHEDULING AND PLANNING ORDER: Counsel for plaintiff shall serve and file the Rule 26 Meeting Report within 28 days of service of this order. (RMC, COURT STAFF) (Entered: 03/05/2019)
04/02/2019	<u>13</u>	REPORT of Rule 26(f) Planning Meeting. (DeLappe, Michelle) (Entered: 04/02/2019)
05/24/2019	<u>14</u>	Joint STIPULATION to Extend Briefing Schedule by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 05/24/2019)
05/29/2019	<u>15</u>	<b>ORDER GRANTING <u>14</u></b> Joint Stipulation to Extend Briefing Schedule. Signed by Judge Timothy M. Burgess on 5/29/2019. (NMG, CHAMBERS STAFF) (Entered: 05/29/2019)
05/29/2019		Docket Annotation: For the purpose of tracking the briefing as ordered at docket <u>15</u> , when filing the Opening Brief the attorney shall file the document using the event

		<u>Motion Miscellaneous Relief</u> and text in the relief being sought. Responsive filings should be filed using the event <u>Response in Opposition to Motion</u> or <u>Response to Motion (Non–Opposition)</u> . The reply, if any, shall be filed using the event <u>Reply to Response to Motion</u> . (RMC, COURT STAFF) (Entered: 05/29/2019)
06/17/2019	<u>16</u>	Joint STIPULATION <i>to Extend Briefing Schedule</i> by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 06/17/2019)
06/18/2019	<u>17</u>	<b>ORDER GRANTING <u>16</u></b> Joint Stipulation to Extend Briefing Scheduled. Signed by Judge Timothy M. Burgess on 6/18/2019. (NMG, CHAMBERS STAFF) (Entered: 06/18/2019)
06/19/2019		Docket Annotation: For the purpose of tracking the briefing as ordered at docket <u>17</u> , when filing the Opening Brief the attorney shall file the document using the event <u>Motion Miscellaneous Relief</u> and text in the relief being sought. Responsive filings should be filed using the event <u>Response in Opposition to Motion</u> or <u>Response to Motion (Non–Opposition)</u> . The reply, if any, shall be filed using the event <u>Reply to Response to Motion</u> . (RMC, COURT STAFF) (Entered: 06/19/2019)
07/01/2019	<u>18</u>	Joint STIPULATION <i>to Extend Briefing Schedule</i> by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 07/01/2019)
07/02/2019	<u>19</u>	<b>ORDER GRANTING <u>18</u></b> Joint Stipulation to Extend Briefing Schedule. Signed by Judge Timothy M. Burgess on 7/2/2019. (NMG, CHAMBERS STAFF) (Entered: 07/02/2019)
08/26/2019	<u>20</u>	Joint STIPULATION <i>to Extend Briefing Schedule</i> by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 08/26/2019)
09/03/2019	<u>21</u>	MOTION for Summary Judgment by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Balsiger Declaration, # <u>2</u> Exhibit 1 to Balsiger Declaration Vaughn Index, # <u>3</u> Exhibit 2 to Balsiger Declaration, # <u>4</u> Exhibit 3 to Balsiger Declaration, # <u>5</u> Exhibit 4 to Balsiger Declaration Final Disposition Letter, # <u>6</u> Exhibit 5 to Balsiger Declaration, # <u>7</u> Exhibit 6 to Balsiger Declaration)(Pomeroy, Richard) (Entered: 09/03/2019)
09/16/2019	<u>22</u>	<b>ORDER RE BRIEFING SCHEDULE.</b> The <u>20</u> Joint Stipulation to Extend Briefing Schedule is ACCEPTED. Defendant's Motion at <u>21</u> is accepted as filed. Signed by Judge Timothy M. Burgess on 9/16/2019. (NMG, CHAMBERS STAFF) (Entered: 09/16/2019)
09/24/2019	<u>23</u>	RESPONSE in Opposition re <u>21</u> MOTION for Summary Judgment filed by Inter–Cooperative Exchange. (Attachments: # <u>1</u> Affidavit Declaration of Joseph M. Sullivan, # <u>2</u> Exhibit Exhibit 1, # <u>3</u> Exhibit Exhibit 2, # <u>4</u> Exhibit Exhibit 3, # <u>5</u> Exhibit Exhibit 4, # <u>6</u> Exhibit Exhibit 5, # <u>7</u> Exhibit Exhibit 6, # <u>8</u> Exhibit Exhibit 7, # <u>9</u> Exhibit Exhibit 8, # <u>10</u> Exhibit Exhibit 9, # <u>11</u> Exhibit Exhibit 10)(DeLappe, Michelle) (Entered: 09/24/2019)
09/24/2019	<u>24</u>	MOTION for Discovery by Inter–Cooperative Exchange. (Attachments: # <u>1</u> Proposed Order [Proposed] Order Granting Motion for Discovery)(DeLappe, Michelle) (Entered: 09/24/2019)
10/04/2019	<u>25</u>	MOTION for Extension of Time to File Response/Reply as to <u>24</u> MOTION for Discovery by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Proposed Order)(Pomeroy, Richard) (Entered: 10/04/2019)
10/04/2019	<u>26</u>	NOTICE of Change of Law Firm Name and Address by Inter–Cooperative Exchange (DeLappe, Michelle) (Entered: 10/04/2019)

10/04/2019	<u>27</u>	RESPONSE in Opposition re <u>25</u> MOTION for Extension of Time to File Response/Reply as to <u>24</u> MOTION for Discovery filed by Inter-Cooperative Exchange. (Attachments: # <u>1</u> Proposed Order)(DeLappe, Michelle) (Entered: 10/04/2019)
10/08/2019	<u>28</u>	REPLY to Response to Motion re <u>21</u> MOTION for Summary Judgment filed by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Attachments: # <u>1</u> Exhibit A– G. Merrill Declaration)(Pomeroy, Richard) (Entered: 10/08/2019)
10/08/2019	<u>29</u>	RESPONSE in Opposition re <u>24</u> MOTION for Discovery filed by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce. (Pomeroy, Richard) (Entered: 10/08/2019)
10/09/2019	<u>30</u>	ERRATA by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce <u>28</u> Reply to Response to Motion, filed by United States Department of Commerce, National Marine Fisheries Service, National Oceanic and Atmospheric Administration. (Attachments: # <u>1</u> Exhibit 1 to Merrill Declaration)(Pomeroy, Richard) (Entered: 10/09/2019)
10/10/2019	31	<b>TMB TEXT ORDER DENYING as moot <u>25</u> Motion for Extension of Time to File Response/Reply.</b> Defendants filed their <u>29</u> Response to <u>24</u> on 10/8/2019. (NMG, CHAMBERS STAFF) (Entered: 10/10/2019)
10/15/2019	<u>32</u>	REPLY to Response to Motion re <u>24</u> MOTION for Discovery <i>Reply In Support of Motion for Written Discovery</i> filed by Inter-Cooperative Exchange. (DeLappe, Michelle) (Entered: 10/15/2019)
11/07/2019	<u>33</u>	<b>ORDER GRANTING ORAL ARGUMENT REQUESTS.</b> The <b>Motion Hearing on <u>21</u> and <u>24</u> is set for 11/25/2019 at 3:00 PM</b> in Anchorage Courtroom 1 before Judge Timothy M. Burgess. Signed by Judge Timothy M. Burgess on 11/7/2019. (NMG, CHAMBERS STAFF) (Entered: 11/07/2019)
11/25/2019	34	Minute Entry for proceedings held before Judge Timothy M. Burgess: Hearing on Motion for Summary Judgment <u>21</u> and Motion for Discovery <u>24</u> held 3:09 p.m. to 3:39 p.m. on 11/25/2019. Oral arguments heard. MATTERS TAKEN UNDER ADVISEMENT; written rulings to issue. APPEARANCES: Michelle DeLappe for plaintiff; Richard L. Pomeroy for defendants. (RMC, COURT STAFF) (Entered: 11/25/2019)